

REMARKS/ ARGUMENTS

The Office Action of September 9, 2005 has been carefully reviewed and this response addresses the Examiner's concerns.

I. **Status of the Claims**

Claims 1-21 are pending in this application.

Claims 1-3, 5, 7-8 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Doerr (U.S. Patent No. 6,754,410) ("Doerr").

Claims 18-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Stone (U.S. Patent No. 5,771,320) ("Stone").

Claims 4, 6, 9, 11-14 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doerr in view of Stone.

Claims 11, 13, 15, 18 and 21 are amended in order to correct typographical errors.

Claim 19 is amended in order to further describe the invention.

Support for Amendments to the Claims

Amendments to claim 9 find support in paragraph 58 and Fig. 8 of the specification.

II. **The 35 U.S.C. §102 rejections**

Claims 1-3, 5, 7-8 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Doerr (U.S. Patent No. 6,754,410) ("Doerr").

As shown in the attached Rule 1.131 declarations by the Applicant/inventor, Thomas W. Stone, and the Patent agent/attorney, Orlando Lopez, the invention was conceived before the filing date of U.S. Patent No. 6,754,410, May 29, 2003, and that the inventor and his attorney diligently worked towards filing the a patent application. Applicant asserts that U.S. Patent No. 6,754,410 is not 35 U.S.C. 102(e) prior art. This assertion does not constitute acquiescence to the purported anticipation by the "Doerr" patent.

Since U.S. Patent No. 6,754,410 is not 35 U.S.C. 102(e) prior art, U.S. Patent No. 6,754,410 cannot anticipate the Applicants invention. Applicants respectfully request that the Examiner find claims 1-3, 5, 7-8 and 10 patentable.

Claims 18-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Stone (U.S. Patent No. 5,771,320) ("Stone" or the '320 patent).

Applicants assert that claim 18, which depends on claim 5, includes an optical separating subsystem and an optical recombining subsystem, neither of which are found in '320 patent. Claims 19-21 claim a planar switch including "said second diffractive grating means receiving a plurality of output beams from said plurality of output locations and redirecting said output beams, said plurality of redirected output beams being substantially parallel and substantially coplanar to said plurality of input beams." Referring to Figs. 1-4 of the '320 patent, the '320 patent does not teach or disclose a switch including "said second diffractive grating means receiving a plurality of output beams from said plurality of output locations and redirecting said output beams, said plurality of redirected output beams being substantially parallel and substantially coplanar to said plurality of input beams."

Claims 20 and 21 have further patentable limitations not found in the '320 patent.

Therefore, Applicant asserts that the '320 patent does not anticipate claims 19-21. Applicants respectfully request that the Examiner find claims 18-21 patentable.

III. The 35 U.S.C. §103 rejections

Claims 4, 6, 9, 11-14 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doerr in view of Stone.

As stated above, Patent No. 6,754,410 is not 35 U.S.C. 102(e) prior art. This assertion does not constitute acquiescence to the purported obviousness of the claimed invention in view of the "Doerr" patent and further in view of the '320 patent. There are a number of claims, including 13, 14, 16 and 17, that have limitations not found in either one of the references.

However, since Patent No. 6,754,410 is not 35 U.S.C. 102(e) prior art (or 102 prior art in general), Applicants respectfully request that the Examiner find claims 4, 6, 9, 11-14 and 15-18 patentable.

IV. Conclusion

In conclusion, in view of the above remarks and attached Declarations under 37 CFR 1.131, Applicant respectfully requests the Examiner find claims, 1-21 as amended, allowable over the prior art and pass this case to issue.

No additional fees are believed to be required for the entry of this response. If additional fees are required, they should be charged to Deposit Account No. 50-1078.

In accordance with Section 714.01 of the MPEP, the following information is presented in the event that a call may be deemed desirable by the Examiner:

JACOB N. ERLICH (617) 854-4000.

Respectfully submitted,
Thomas W. Stone, Applicant

Dated: December 1, 2005

By: 
Jacob N. Erlich
Reg. No. 24,338
Attorney for Applicant